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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,567	03/23/2004	David L. Marvit	073338.0197 (04-50469 FLA	3070

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER	
LIANG, REGINA	

ART UNIT	PAPER NUMBER
2629	

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/807,567	MARVIT ET AL.	
	Examiner	Art Unit	
	Regina Liang	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-11 and 13-21* is/are rejected.

7)☒ Claim(s) *5 and 12* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/23/04, 1/25/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 16-20 are rejected under 35 U.S.C. 101 because 4the claimed invention is directed to non-statutory subject matter. Claims 16-20 although written to include a computer readable medium, however for a logic, i.e., computer program, to be statutory subject is must be claimed as a computer program stored on a computer readable medium as set forth in page 52 of the Interim Guidelines, thus without such the claims are non-statutory in nature.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 4, 9-11, 16, 17, 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Bartlett (US 6,573,883).

As to claims 1, 21, Fig. 5 of Bartlett discloses a motion controlled handheld device comprising:

a display (710) having a viewable surface and operable to generate an image;

a gesture database maintaining a plurality of gestures (catalog of gesture commands in Fig. 3), each gesture defined by a motion of the device with respect to a first position of the device;

a motion detection module (110 in Fig. 3) operable to detect motion of the handheld device within three dimensions and to identify components of the motion in relation to the viewable surface (col. 4, lines 37-50); and

a control module (120 in Fig. 3) operable to: identify a base reference position of the device (col. 3, line 53 to col. 4, line 12); track movement of the device, using the motion detection module, to identify a potential gesture; compare the potential gesture against the gestures in the gesture database (col. 4, line 53-60); and determine whether the potential gesture matches to a compared one of the gestures based on whether a difference between the potential gesture and the compared gesture is within a precision threshold (col. 5, lines 22-47; if the tilt gesture is between a first angular range ($\theta_1 < \theta < \theta_2$), the scrolling command is a slow or stepwise, if the tilt gesture is between a second angular range ($\theta_2 < \theta < \theta_3$), the scrolling command is a rate increase; the first or second angular range corresponds to the precision threshold).

As to claim 2, Bartlett teaches to identify a first precision threshold (first angular range ($\theta_1 < \theta < \theta_2$) associated with a first set of the gestures (a slow or stepwise scrolling); identify a second precision threshold (a second angular range $\theta_2 < \theta < \theta_3$) associated with a second set of the gesture (a rate increase scrolling), the second precision threshold requiring greater precision than the first precision threshold; and apply a selected on the first precision threshold and the

second precision threshold based upon whether the potential gesture potentially matches to one of the first set of the gestures or one of the second set of the gestures.

As to claim 4, Bartlett teaches the angle in the second angular range is greater than the angle in the first angular range, which reads on the second set of the gestures has a greater density of potential gestures than the first set of the gestures.

Claims 9-11, 16, 17, which are method claims corresponding to the above apparatus claims 1, 2, 4, are rejected for the same reasons as stated above since such method "steps" are clearly read on by the corresponding "means".

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bartlett in view of Sterling (US 2004/0178995).

As to claim 3, Bartlett teaches the gestures comprising basic control gestures (scrolling). Bartlett does not disclose the second set of the gestures includes security access gestures. However, Sterling teaches using gestures to obtain security clearance in an electronic device ([0060]-[0061]). Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the second set of gestures of Bartlett to be used in security access as taught by Sterling so as to extend the range of gesture commands available for

controlling of an electronic device such that the security access in the electronic device can be controlled without the use of the buttons for command input.

7. Claims 6, 7, 13, 14, 18, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartlett in view of Cherveny (US 6,565,144) and Shpiro (US 5,766,015).

Bartlett does not disclose determining the gesture match to the compared gesture, generating a prompt indicating the match, or determining the gesture does not match to the compared gesture, generating the prompt to indicating failure to the match. However, Fig. 6 of Cherveny teaches a data input device having a gesture recognition routine, the gesture recognition routine outputs an audible output (indication) to the speaker indicating that the gesture has been recognized (see col. 9, lines 49-63 for example; this corresponds to determining the gesture match to the compared gesture, generating a prompt indicating the match). Also, Shpiro teaches a device comprising an indication for indicating the failure of a match such that an audio or visible feedback indication is provided to the user to identify the matched and indicating whether it is matched or not matched (col. 5, lines 1-6). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify system of Bartlett to have the indicating features as taught by Cherveny and Shpiro to provide a feedback indication to the user clearly indicating to the user whether it is a match or not a match (col. 5, lines 3-6 of Shapiro).

8. Claims 8, 15, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartlett in view of Feinstein (us 2002/0190947).

Bartlett teaches using multiple motion sensors for sensing the motion of the device (col. 5, lines 2-4). Bartlett does not explicitly disclose using first, second and third accelerometer for detecting acceleration along a first, second and third axis. However, Feinstein teaches using three accelerometers for detecting the motion of the device along a first, second and third axis (see Fig. 14). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Bartlett to use three accelerometers as taught by Feinstein since the three accelerometers measure the acceleration of the device along three independent directions precisely.

Allowable Subject Matter

9. Claims 5 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Liang whose telephone number is (571) 272-7693. The examiner can normally be reached on Monday-Friday from 8AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe, can be reached on (571) 272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Regina Liang
Primary Examiner
Art Unit 2674

10/27/06